

Mr. Lynn E. Williams
Parish Attorney
Parish of East Baton Rouge
Post Office Box 1471
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Dear Mr. Williams:

You recently requested an opinion of this office as to whether the Metropolitan Council would be in violation of the Open Meetings Law in various situations as suggested in your letter of March 22, 1989. I will first attempt to give a brief over-view of the Open Meetings Law and then will attempt to answer the specific questions as addressed in your letter.

The Open Meetings Law is contained in Revised Statutes 42:4.1 et seq. Section 4.1 indicates that the Open Meetings Law "shall be construed liberally". Section 4.2 contains several important definitions, most specifically, the definition of the word "meeting" which states as follows:

Section 4.2.A.(1) "Meeting" means the convening of a quorum of a public body to deliberate or act on a matter over which the public body has supervision, control, jurisdiction, or advisory power. It shall also mean the convening of a public body by a public body or by another public official to receive information regarding a matter over which the public body has supervision, control, jurisdiction or advisory power." (emphasis added)

Also important to this opinion is Section 4.2.B which states as follows: "The provisions of R.S. 42:4.1 through R.S. 42:12 shall not apply to chance meetings or social gatherings of members of a public body at which there is no vote or other action taken, including formal or informal polling of the members."

Mr. Lynn Williams
Opinion No. 89-352
Page -2-

The first situation you discussed concerned the council member who sits on the Planning Commission and what the effect would be if other council members were in attendance to hear various discussions on the master plan used and approved by the parish voters. R.S. 42.4.2 requires that the meeting be convened for the public body to deliberate or act on a matter over which the public body has supervision, control, jurisdiction or advisory power. By the very nature of your request, the Planning Commission Meeting is not a meeting over which the Metropolitan Council has the above powers and therefore, clearly falls outside the definition of the statute.

This would also be the same analysis concerning your second question as to whether the sub-committees of the Metropolitan Council are in violation of the Open Meetings Law when a quorum of the members enter a room where the committee meeting is being held. Again, even though a quorum may be present, they are not there to take action as a public body. The non-members of the committee, even though present in the room, have no vote or power over the matters to be discussed or any action taken.

On pages 2 and 3 of your letter, you cited three (3) specific examples to which you have requested an opinion from this office. First, the "right to know" functions sponsored by Exxon Chemical Company in Baton Rouge. This clearly falls under Sub-part B of R.S. 42:4.2 in that this is a social gathering. Further, Exxon is not a public body, so there is no question of a violation under Sec. 4.2.A.(1).

The second question concerns the meeting at the Camelot Club where the Architectural Association was presenting information to various public officials concerning the selection of professional engineers and architects. Again,

Mr. Lynn Williams
Opinion Number 89-352
Page -3-

this meeting is more in line with a social gathering. It has not been called by a public body and the members present, even though a quorum was in attendance, were not there to take any action on any board business. This is not a violation of the Open Meetings Law.

Finally, your third question concerned the attendance of council members at various conferences throughout the United States to discuss problems which are common to these organizations and possible solutions to those problems. As in the other questions above, the mere fact that a quorum of the members are in attendance at an open meeting, does not violate the Open Meetings Law. To be in violation of Sec. 4.2.A.(1), the information received at these meetings must be directly related to the council's decision making process. A conference, in its normal sense is a presentation of generic information designed to educate participants. This knowledge can then be applied to specific problems back home. Since a conference does not provide information which the council will use to make a decision, it is not a violation of the Open Meetings Law although a quorum is in attendance.

As a rule, the Open Meetings Law would seem to require a determination of the intent of the party at the time a quorum was present in a particular location. All the situations which you have referred to above may at certain times cause the council to be in violation. Specifically, if the Metropolitan Council attends the meeting at the Camelot Club and a quorum is present and this quorum then goes off in the corner of the room and discusses business over which the Council does have supervision, control, jurisdiction or advisory power, this would, in fact, be a violation of the Open Meetings Law. Therefore, it is not so much how the members are convened which should be a concern but what the members do when they arrive and a quorum is present.

The mere fact that a quorum is present in any particular location does not cause a violation of the Open Meetings Law. I hope that the above opinion will provide some answers to your questions.

Mr. Lynn Williams
Opinion Number 89-352
Page -4-

Also to aid you in a clearer understanding of this area of the law, I have enclosed the following Attorney General opinions dealing with the same subject matter for your review. Also note that there are exceptions to the Open Meetings Law set forth in R.S. 42:6 and 6.1.

1. Opinion No. 88-162
2. Opinion No. 88-358
3. Opinion No. 77-1508
4. Opinion No. 77-224
5. Opinion No. 76-1399

Very truly yours,

WILLIAM J. GUSTE, JR.
Attorney General

MICHAEL L. HEBERT
Staff Attorney

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Enclosure